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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                | CONFIRMATION NO.       |
|--|-------------|----------------------|------------------------------------|------------------------|
| 10/695,023   | 10/28/2003  | Michael J. Lehr      | 31356.30005                        | 4272                   |
| 26781  | 7590        | 05/22/2007           |                                    |                        |
| BROUSE MCDOWELL LPA<br>388 SOUTH MAIN STREET<br>SUITE 500<br>AKRON, OH 44311 |             |                      | EXAMINER<br>CRABTREE, JOSHUA DAVID |                        |
|  |             |                      | ART UNIT<br>3714                   | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>05/22/2007            | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/695,023

Applicant(s)

LEHR, MICHAEL J.

Examiner

Joshua D. Crabtree

Art Unit

3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

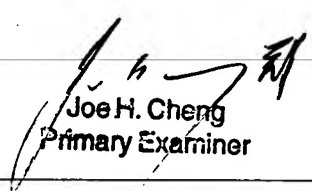
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1, 2, 4-7, 9-13, 15 and 17-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
Joe H. Cheng  
Primary Examiner

Continuation of 13. Other: Claims 1,2,4-7,9-13,15 and 17-20 will be rejected under the same grounds as presented in the previous office action. The applicant has presented four broad arguments ("Allegoric, Scientific/Statistical, Questions, and Conceptual" on p. 13.

First, applicant argues that the prior art does not teach the usage of allegories. The applicant presented this argument in the previous arguments submitted on 1/15/2007 (page 13). The examiner responded to this argument in the subsequent office action mailed on 3/14/2007 (pp. 6-7).

The applicant argues that the prior art does not show an unscientific or non-statistical approach. The invention of Bajer requires a user to interact with scenarios and provide assumptions. Such interaction would be driven by the assumptions and input of the user, rather than some sort of scientific or statistical method.

The applicant has argued that the prior art does not show specific types of questioning methods ("Boundless, Expressive, Commentative, Immediate, Synergistic, and Arbitrary", on pp. 21-24, and 54).

Regarding the argument that the prior does not show the "Boundless", form of questioning, the examiner does not find this limitation in any of the claims, and the applicant has not specified which claim(s) are purported to contain the limitation. Thus the argument is moot.

Regarding the applicant's argument that the prior art does not show "Commentative" questioning, the examiner is once again unsure which claim(s) are being referred to with this argument (since no specific claims have been referred to in the argument). However, the examiner has shown that Bajer shows the feature of allowing comments, as described on pp. 6-7 in the Office Action mailed on 10/18/2006.

Regarding the applicant's argument that the prior art does not show "Immediate" questioning, the examiner is once again unsure which claim(s) are being referred to with this argument (since no specific claims have been referred to in the argument). However, the examiner has shown that Bajer shows the feature of allowing real-time interaction, as described on p. 4 in the Office Action mailed on 3/14/2007.

Regarding the argument that the prior does not show the "Synergistic", form of questioning, the examiner does not find this limitation in any of the claims, and the applicant has not specified which claim(s) are purported to contain the limitation. Thus the argument is moot.

Regarding the applicant's argument that the prior art does not show "Arbitrary" questioning, the examiner is once again unsure which claim(s) are being referred to with this argument (since no specific claims have been referred to in the argument). However, the examiner has shown that Bajer shows the feature of questions used to collect evidence, as described on p. 4 in the Office Action mailed on 3/14/2007.

Applicant has argued pertaining to the perceived conceptual difference(s) between the applicant's invention and the prior art. The examiner used the claimed limitations when forming the previous rejection. The examiner bases a rejection on the claimed limitation(s), and not necessarily the overall "conceptual" similarity or differences between an inventor's application and prior art. The arguments regarding conceptual differences between the prior art and the inventor's application do not pertain to specific claims, and is therefore moot.

The applicant has argued that the prior art does not show the claimed limitations (pp. 26-50). The examiner refers the applicant to the previously mailed office actions, wherein the examiner described how the prior art shows the claimed limitations.

The applicant has presented interpretations of the individual prior art references on pp. 57-72. However, the applicant has not presented specific arguments regarding which claimed feature(s) are believed not to be present, with regard to specific claim(s).